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MONTANA LEGISLATIVE HISTORY

Chapter 163 19 91

Bill H _____ S 28 Original bill & history ____C

H. Committee on LABOR & EMPLOYMENT			S. Committee on LABOR & EMPLOYMENT		
Hearing Date(s)	3/5	X C	Hearing Date(s) & EXEC ACTION	1/15	X C
EXEC. ACTION	3/7	X C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/08	3RD READING CONCURRED	98	0
	RETURNED TO SENATE		
3/14	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/15	TRANSMITTED TO GOVERNOR		
3/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 93	EFFECTIVE DATE: 10/01/91	

SB 26 INTRODUCED BY MANNING

REVISE BOARD OF INVESTMENTS TO INVEST PERMANENT COAL TAX TRUST FUND

BY REQUEST OF COAL TAX OVERSIGHT SUBCOMMITTEE

12/27	INTRODUCED		
12/31	REFERRED TO TAXATION		
1/02	FISCAL NOTE REQUESTED		
1/07	FIRST READING		
1/09	FISCAL NOTE RECEIVED		
1/11	FISCAL NOTE PRINTED		
1/15	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/24	2ND READING PASSED	48	1
1/25	3RD READING PASSED	47	2
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO TAXATION		
2/06	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	97	1
4/12	3RD READING CONCURRED	95	2
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 589	EFFECTIVE DATE: 7/01/91	

SB 27 INTRODUCED BY SVRCEK

EXEMPT VEHICLES TRANSPORTING RECYCLABLE MATERIALS FROM CARRIER REGULATIONS

12/27	INTRODUCED		
12/31	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/02	FISCAL NOTE REQUESTED		
1/07	FIRST READING		
1/07	FISCAL NOTE RECEIVED		
1/07	FISCAL NOTE PRINTED		
1/15	HEARING		
1/31	TABLED IN COMMITTEE		

SB 28 INTRODUCED BY WILLIAMS

CONCURRENCE OF STATE FUND WITH DEPARTMENT OF LABOR NEEDED TO SELF-INSURE WORK COMPENSATION

12/27	INTRODUCED		
12/31	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/02	FISCAL NOTE REQUESTED		
1/07	FIRST READING		
1/08	FISCAL NOTE RECEIVED		
1/08	FISCAL NOTE PRINTED		
1/15	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/19	2ND READING PASSED	28	16

1/21	3RD READING PASSED	32	
	TRANSMITTED TO HOUSE		
1/22	FIRST READING		
1/22	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/05	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	95	
3/12	3RD READING CONCURRED	91	
	RETURNED TO SENATE		
3/20	SIGNED BY PRESIDENT		
3/21	SIGNED BY SPEAKER		
3/22	TRANSMITTED TO GOVERNOR		
3/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 163	EFFECTIVE DATE: 10/01	

SB 29 INTRODUCED BY DEVLIN

REQUIRE TERM OF SERVICE FOR SCHOOL TRUSTEE TO BEGIN JULY 1

12/27	INTRODUCED		
12/31	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/07	FIRST READING		
1/11	HEARING		
1/14	TABLED IN COMMITTEE		

SB 30 INTRODUCED BY TOWE, ET AL.

DEFINE PROFESSIONAL STRIKEBREAKER AND REQUIRE EMPLOYMENT INFORMATION

12/27	INTRODUCED		
12/31	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/07	FIRST READING		
1/10	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/31	2ND READING PASSED	28	
2/01	3RD READING PASSED	26	
	TRANSMITTED TO HOUSE		
2/02	FIRST READING		
2/02	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/07	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	63	
3/12	3RD READING CONCURRED	60	
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/18	SIGNED BY SPEAKER		
3/18	TRANSMITTED TO GOVERNOR		
3/21	VETOED		

SB 31 INTRODUCED BY TOWE, ET AL.

REGULATE DRUG TESTING

12/27	INTRODUCED		
12/31	REFERRED TO JUDICIARY		
1/07	FIRST READING		
1/16	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED AS AMENDED	42	
2/26	3RD READING PASSED	42	
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO LABOR & EMPLOYMENT RELATIONS		

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairman Richard Manning, on January 15, 1991, at 1:05 p.m.

ROLL CALL

Members Present:
Richard Manning, Chairman (D)
Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: Gerry Devlin (R) - temporarily excused

Staff Present: Tom Gomez (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: NONE

HEARING ON SENATE BILL 14

Presentation and Opening Statement by Sponsor:

Senator Bob Williams presented Senate Bill 14 to the Committee as requested by the Select Committee on Workers' Compensation. The recommendation out of that Committee is that a self-insured employer may be required to provide a security deposit to assure the ability to pay. Senate Bill 14 adds a certificate of deposit to instruments that an employer may provide as a security deposit. It also includes an amendment to Section 39-71-2106.

Proponents' Testimony:

George Wood, Executive Secretary of the Montana Self-Insurers Association spoke in support of Senate Bill 14. He told the Committee that it adds on more option for security deposits.

Bob Jensen, Administrator of the Unemployment Insurance

Division of the Montana Department of Labor and Industry, spoke from prepared testimony. (Exhibit #2) Mr. Jensen also presented the Committee with a proposed amendment.

Opponents' Testimony:

NONE

Questions From Committee Members:

Senator Keating asked Mr. Jensen if government bonds are attachable assets. Mr. Jensen referred the question to Diana Ferriter. Ms. Ferriter said government securities can be seized.

Senator Towe explained that if a security agreement is pledged to the Department of Labor and Industry, a bankruptcy court cannot touch it. Senator Towe explained that joint-ownership would not be necessary if a security agreement was in place.

Senator Blaylock asked Ms. Ferriter which instrument is most often used. Ms. Ferriter said that for self-insurers it is the surety bond, and that it cannot be seized in a bankruptcy.

Senator Nathe asked if a security agreement applies to all instruments. Senator Towe explained that it applied to all except security bonds which are outside companies, who are bound regardless of the bankruptcy situation.

Senator Keating asked Mr. Jensen if the Rules were promulgated yet. Mr. Jensen said they would be done on the basis of using certificates of deposits if this Bill passes.

Mr. Jensen explained that the self-insurer is audited annually in order to determine the employer's solvency.

Senator Keating asked that George Wood address the amendment and go on record in support of it. Mr. Wood explained that if the instrument has a security agreement with it, it is secure.

Closing by Sponsor:

Senator Williams closed by saying that he would accept the suggested amendments. He recommended a DO PASS.

HEARING ON SENATE BILL 28

Presentation and Opening Statement by Sponsor:

Senator Williams presented Senate Bill 28, as well as, proposed amendments. Senate Bill 28 would require concurrence of the Montana Self-insurers Guaranty Fund in a decision of the Department of Labor and Industry that an employer is entitled to

self-insure or to continue to self-insure under the Workers' Compensation Act. The original Bill required the Department of Labor and Industry consult with the Fund. Senator Williams stated that Senate Bill 28 would give the Fund more than an advisory position.

Proponents' Testimony:

George Wood, Executive Secretary of the Montana Self-Insurers Association and Executive Secretary for the Montana Guaranty Fund. Mr. Wood spoke in favor of Senate Bill 28, saying that the Guaranty Fund should have the power to concur, rather than advise the Department in approving employers for self insurance. Mr. Wood told the Committee that at the present time the relationship between the two entities is working like concurrence, although the law has not given the Fund the right to concur. This Bill would allow the Fund veto power. Mr. Wood said the Fund has the financial liability but does not have the right to approve or disapprove an applicant. (Exhibit #2)

Opponents' Testimony:

Mike Micone, Commissioner of Labor and Industry spoke in opposition to Senate Bill 28. Mr. Micone told the Committee that the Department has the responsibility by law to approve or disapprove an applicant for self insurance. He explained that since the establishment of the Guaranty Fund the Department of Labor and Industry has worked closely with the board, but that the Department was not abdicating their responsibility or authority.

Questions From Committee Members:

Senator Lynch asked Mr. Wood if in fact the Fund was going from an advisory role to a veto role. Mr. Wood answered that it could be characterized as that. Senator Lynch pointed out that if it working well now, why change it. Mr. Wood explained that the regulatory authority rests with the state but the financial responsibility is the Fund.

Senator Blaylock asked how many people serve on the advisory board. Mr. Wood told the Committee that there are five, Dan Walker of US West, Charles Gilder of Montana Power, John Mizner of Champion International, Don Jenkins of Golden Sunlight Mines, and Mark Blair of ASARCO in Troy.

Senator Towe pointed out that in Section 4 and Section 5 the department should have the flexibility to ask for additional proof of solvency. When the department becomes convinced that the solvency is in question, the department should be able to act without the Fund standing in their way. Senator Towe asked Mr. Wood if Section 4 and Section 5 were struck from the Bill would he object. Mr. Wood said he would not object. Senator Towe asked Mr. Micone if he would object to the Bill if Section 4 and

Section 5 were struck. Mr. Micone explained the department would still oppose the Bill because the department would continue to have the responsibility while turning over authority.

Senator Keating asked about renewals, and if the self-insurer is always a member once they have been approved. Mr. Wood pointed out that the Fund can advise the department that the employer is "shaky". Senator Keating then asked what the department can do upon that advice. Mr. Wood said the department could ignore it. Mr. Wood cited the Circle K Stores which were approved by the department. Circle K has since discontinued paying their claimants, their security deposit has been tapped and their payments are being made by the surety company. If that surety bond is insufficient, the self-insurers fund has to assess themselves and pay the difference.

Senator Blaylock referred to an earlier question by Senator Lynch. Senator Lynch said that they (the Fund) should share the risk. Mr. Wood pointed out that the Fund does not insure anyone. The Fund is set up to be an insurer of last resort.

Closing by Sponsor:

Senator Williams said that the self-insured want to assure themselves that they will be in a position to concur on all applications, regardless of the personalities at the Department of Labor and Industry or the Fund. Senator Williams asked for a DO PASS. He also pointed out that there would be no need for the fiscal note after amendments.

EXECUTIVE ACTION ON SENATE BILL 14

Motion: Senator Lynch moved to amend Senate Bill 14 with the Department of Labor and Industry amendment.

Discussion: NONE

Motion: Senator Lynch moved that Senate Bill 14 DO PASS as amended.

Discussion: Senator Towe asked the Committee if there were a need for a statement of intent. He suggested that the Department of Labor and Industry should be directed to include security agreements in the Rules.

Amendments, Discussion, and Votes: Voice vote.

Recommendation and Vote: DO PASS as amended.

EXECUTIVE ACTION ON SENATE BILL 28

Motion: Senator Towe moved to amend Senate Bill 28.

Discussion: NONE.

Amendment, Discussion, and Votes: Voice vote. CARRIED.

Motion: Senator Towe moved to delete Section 4 and Section 5 from Senate Bill 28.

Sub-Motion: Senator Lynch offered a substitute motion for DO NOT PASS as amended on Senate Bill 28.

Discussion: Senator Lynch asked that a vote be taken. If Senate Bill 28 were to NOT PASS Senator Towe's motion would not be needed. Senator Lynch pointed out if there are no problems between the Fund and the department the Bill is unnecessary. Senator Towe told that Committee that the Fund has shown that there is a possibility for problems.

Senator Blaylock pointed out that Mason's says that all motions must be stated positively. After further discussion it was decided to call a Roll Call Vote.

Amendments, Discussion, and Votes: Roll Call Vote on sub-motion.

Recommendation and Vote: DO NOT PASS as amended.

ADJOURNMENT

Adjournment At: 2:15 p.m.

Sen. Richard E. Manning
RICHARD E. MANNING, Chairman

Linda Casey
LINDA CASEY, Secretary

REM/llc

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 1/15/91

____ LEGISLATIVE SESSION ____

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN			temporarily E
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING	P		
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		

Each day attach to minutes.

NAME: George Wood DATE: 1/15/91

ADDRESS: Mt. Self Insurers Assoc.

PHONE: 549-8849

REPRESENTING WHOM? Box 969 Missoula Mt.

APPEARING ON WHICH PROPOSAL? SB 28

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The Guaranty Fund feels that they should have the power to concur rather than advise the Department on approving employers for self insurance. Since they have the financial liability they should have the right to approve or disapprove applications for self insurance in conjunction with the Department of Labor and Industry.

George Wood

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 1/15/91
BILL NO. 28

NAME: Mike Meloche DATE: 1/15/91

ADDRESS: Dept. of Labor & Industry

PHONE: 444-3263

REPRESENTING WHOM? Same as above

APPEARING ON WHICH PROPOSAL: SB 28

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: SB28 - Dept. of Labor & Industry has responsibility and authority to review & act on applications for workers Comp. self. insurance. SB28 gives authority to the Guarantee Fund but the Dept retains responsibility.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 1/15/91
BILL NO. SB 28

DATE 1/15/91

COMMITTEE ON Senate Labor BILL NO. _____

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One: Support	Oppose
Bob Jensen	Dept of Labor & Industry	SB-14	X	
[redacted]	[redacted]	~~SB-14~~		
George Wood	Mt Self Insurers Assn	SB-428	X	
Mike Micone	DLI			X
Bill Leahy	Montana Bankers Assn	SB-14	X	

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 4/15/91 Senate Bill No. 28 Time 2:10 pm

NAME	YES	NO
SENATOR AKLESTAD	X	
SENATOR BLAYLOCK		X
SENATOR DEVLIN	X	
SENATOR KEATING	X	
SENATOR LYNCH	X	
SENATOR MANNING		X
SENATOR NATHE		X
SENATOR PIPINICH	X	
SENATOR TOWE		X

Linda Casey
Secretary

Sen Richard E. Manning
Chairman

Motion: Do Not Pass Carries as amended

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES** on March 5, 1991, at 3:00 p.m.

ROLL CALL

Members Present:
Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Gary Beck (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Royal Johnson (R)
Bob Pavlovich (D)
Jim Southworth (D)
Dave Wanzenried (D)
Tim Whalen (D)

Members Excused:
Fred Thomas (R)

Members Absent:
Thomas Lee (R)
Mark O'Keefe (D)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 824

Presentation and Opening Statement by Sponsor:

REP. TIM WHALEN, House District 93, Billings, said he sponsored a bill in 1987 to deal with a problem in which a constituent was significantly injured. When he applied for Workers' Compensation, he was told that the employer was uninsured. He wrote to the Division to obtain relief from the Uninsured Employers' Fund and was told there was no money in the Fund. The bill was introduced as a .1 percent payroll tax before the .3

it addresses the problem of the unfunded liability. HB 824 would impose a permanent tax on Montana businesses, then each session thereafter it could be added again for other causes.

Jacqueline Terrell, American Insurance Association, said the payroll tax was instituted to take care of the unfunded liability of the State Fund. Although that is a tax directed only to funding the State Fund, those employers who choose to insure with the self-insurers or with private companies also pay this additional tax for funding the State Fund. This bill penalizes people who are already complying with the law to take care of a problem created by those who are not complying.

Gene Phillips, National Association of Independent Insurers and the Alliance of American Insurers, stated his opposition.

Joyce Hoffman, small business owner, Columbia Falls, said small businesses can't afford any more taxes.

Questions From Committee Members: None

Closing by Sponsor:

REP. WHALEN closed the Hearing on HB 824.

HEARING ON SB 28

Presentation and Opening Statement by Sponsor:

SEN. BOB WILLIAMS, Senate District 15, Hobson, said in 1982 SB 278 created the Self-Insurers Guaranty Fund. It created a mechanism for the payment of Workers' Compensation claims of an insolvent self-insured employer. The Fund is financed by the requirement that every private self-insurer must join the Fund as a condition of self-insurance approval and must pay an initial fee of a $1,000 assessment based on compensation payments. The duties of the Fund are to assume and pay the Workers' Compensation obligations of an insolvent self-insurer who has discontinued payments and whose security is exhausted. The self-insured employers must assess themselves amounts necessary to pay the claims of the insolvent employer. The money to pay the insured workers' claims comes from employers who are self-insured. SB 28 changes the word "consult" to "concur." The people paying the bill should have the ability to concur with the Department of Labor rather than just be consulted with.

Proponents' Testimony:

George Wood, Executive Secretary, Montana Self Insurers Association, said the Guaranty Fund insures that injured workers employed by self-insurers would receive compensation if the self-insured employer went bankrupt. In the event of a bankruptcy where the security deposits are exhausted, the members of the Guaranty Fund must assess themselves sufficient money to pay the claims promptly. Since the Fund has been in operation, there has

been one bankruptcy and the Fund has contingent liability on that. Circle K went bankrupt in January 1990, and the security deposit is paying it. Since the enactment of this bill, the Department has been operating under "concurrence." The bill says "consult." The working relationship between the Fund and the Department is excellent. The purpose is to determine who is going to self-insure or who's self-insurance privileges will be continued. The intent is not to decrease the Department's authority but to share the obligation with the Department. If a self-insured employer becomes bankrupt, the Fund pays the debts, not the Department. The Fund should have more than an advisory position on who will be included in the Fund and whose bills the Fund will have to pay. This is putting into law what has been practiced since 1989.

Dan Walker, President, Self Insurers' Guarantee Fund, said the relationship with the Department is a matter of concurrence as renewals and new applications are dealt with. He stated his support of including that in the Code. The Fund is ultimately responsible for any debts.

Opponents' Testimony:

Bob Mullen, Deputy Director, Department of Labor, said it should be the Department's responsibility to approve or disapprove applications of self-insurers. It is the Department, and therefore the state, that owns the regulatory responsibility of self-insurers. It is the Department's staff that have been held personally liable for an insolvency, not the Guarantee Fund Board members. The Department feels that its public responsibilities are much greater than those of Guarantee Fund's members. Since the Fund was established in 1989, the Department has worked closely with the Board. Presently, the statutory language insists upon consultation and allows the review of the applications by the Board prior to the Department making a determination. This relationship has been helpful to the staff of the Department. The method requiring concurrence of application and review is unnecessary. The Department is an executive agency and the Board is appointed by the Governor. If problems arise, the hands of the agency shouldn't be tied "up front." There is little reason to legislate what is being done in present practice.

Questions From Committee Members:

REP. DRISCOLL asked **Mr. Mullen** if he said somebody was held personally liable when a self-insured went broke. **Mr. Mullen** said yes; in the Great Western Case, two staff members were held personally liable when that self-insured went insolvent. **REP. DRISCOLL** asked how much money did they have to pay. **Mr. Mullen** referred the question to **Diana Ferriter, Department of Labor.** She said the amount of claims was about $1 million, not including any negligent damages that may be found. **REP. DRISCOLL** asked how much of the $1 million was paid by the employees that were held

personally liable. **Ms. Ferriter** said she didn't have the information with her, but the Supreme Court ruled that the Department of Labor could be held liable for the claims because of negligence that was found in reviewing the application. **REP. WHALEN** said he was one of the lawyers involved in the lawsuit. The Department of Labor and Industry, the State of Montana, and any individuals formally with the Department of Labor have not been held accountable for any money in that case. A lawsuit was filed against the state; that lawsuit was thrown out on an immunity question which was overturned by the Supreme Court. A trial date has not been scheduled before the District Court.

REP. BENEDICT said it seems the result is whether the Department of Labor decides who gets into the Self-Insured Fund or the self-insurers themselves. He asked **Mr. Mullen** if he could foresee where somebody would be referred into the Self-Insured Fund against the wishes of the self-insurers? **Mr. Mullen** said that has not taken place yet. The Department doesn't foresee that happening. The Department has worked closely with the Guarantee Fund and listens to their advice. **REP. BENEDICT** asked if the Department would let somebody into the Fund against the wishes of the self-insurers. **Mr. Mullen** said if the Department felt strongly that there would be problems in the future, it would be discussed with the Guarantee Fund and perhaps with the Governor.

REP. JOHNSON asked **Mr. Mullen** if the Montana Self-Insurer Guarantee Fund was allowed to make the decision not to concur, is there a way that the Department of Labor could be completely relieved of liability. **Mr. Mullen** said yes; that could probably be worked out, but he didn't know if Montana's workers would be protected in that process. The Department is given the regulatory responsibility of the self-insureds. Presently, the Department wants to maintain that responsibility.

REP. JOHNSON asked **Mr. Wood** how he would react if all the responsibility was given to the Guarantee Fund. **Mr. Wood** said that is not what is being asked for. The state has a position in the determination of who should be self-insured. They should concur. The liability of state employees has moved off track. When the law was passed in 1989, any self-insurer admitted became the liability of the Self-Insurers' Guarantee Fund. There is no state liability. The Great Western Case was prior to the Fund. Circle K went bankrupt after the Fund was created. If the security deposit of Circle K is insufficient, the Fund will have to pay. The shared authority gives two perspectives; it enlarges the knowledge and the validity of any decision.

Closing by Sponsor:

SEN. WILLIAMS said when Great Western went bankrupt, the Fund didn't exist. The Fund will be obligated to make sure that the worker employed by a bankrupt company will receive full benefits. The Self-Insured Fund should have more voice in who is brought into the Fund.

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE 3/5/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE		✓	
REP. GARY BECK	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON	✓		
REP. THOMAS LEE		✓	
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS			✓
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

CS05COM.man

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

LABOR & EMPLOYMENT RELATIONS COMMITTEE BILL NO. SB 28

DATE 3/5/91 SPONSOR(S) Bob Williams

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Barb Mullen	Dept. of Labor		✓
George Wood	Mt Self Insurers Assn	✓	
Kay Foster	Billings Chamber	✓	
Jim Ardell	U S WEST	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES**, on March 7, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Royal Johnson (R)
Thomas Lee (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Fred Thomas (R)
Dave Wanzenried (D)
Tim Whalen (D)

Members Excused:

Gary Beck (D)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 130

Presentation and Opening Statement by Sponsor:

SEN. ED KENNEDY, JR., Senate District 3, Kalispell, presented written testimony and a handout. **EXHIBIT 1**

Proponents' Testimony:

Roger Tippy, Montana State Pharmaceutical Association, stated the Board of Directors supported the bill.

Darrell Holzer, AFL-CIO, presented written testimony. **EXHIBIT 2**

amount was going to be reduced to $50,000. It was discussed and it would be handled. **REP. DRISCOLL** said they have $8 million worth of CDs in the Workers' Compensation Division now for deposits on non-self-insurers. A person can put up a CD for a deposit if he is buying insurance from the Division now. They have rules about this.

Vote: SB 14 BE CONCURRED IN. Motion carried 13 to 1 with Rep. Johnson voting no. Reps. Hoffman, Lee, Thomas, and O'Keefe were absent for the vote.

EXECUTIVE ACTION ON SB 28

Motion/Vote: REP. DRISCOLL MOVED SB 28 BE CONCURRED IN. Motion carried 12 to 2 with Reps. Fagg and Johnson voting no. Reps. Hoffman, Lee, Thomas, and O'Keefe were absent for the vote.

HEARING ON SB 220

Presentation and Opening Statement by Sponsor:

SEN. CHET BLAYLOCK, House District 43, Laurel, said SB 220 cleans up archaic language in the Codes in regard to railroads. It strikes language that is no longer necessary or applicable.

Proponents' Testimony:

Leo Berry, Attorney, Burlington Northern Railroad, presented a handout of the archaic language. **EXHIBIT 5.** The language in the law for railroads hasn't been changed since the 1800s. He worked closely with the Public Service Commission (PSC) and the Department of Livestock so the language wouldn't affect their authority. Some of the language in the Code is duplicative. Page 4, Line 10, relieves the PSC from preparing an annual report, setting out what efforts it has made to comply with the provisions of the Chapter. It is not done, so there is no need for the requirement. In Section 7, the language has been changed according to how bills of lading are handled today. People are no longer filling out bills of lading by hand. It is done by computers and fax machines. However, if a shipper wants a bill of lading prepared he can get one. In Section 11, Page 9, there are Rules of Civil Procedure that govern how a complaint is filed if it goes to court. That language isn't needed in this section of Code. It is inconsistent with the Rules of Civil Procedure as they read today. In the Senate, the rail unions opposed the bill. Their concern was on Page 14 pertaining to the penalty for intoxication. It is immaterial whether the section is left in the bill or not. They have argued that 61-8-401, MCA, would be applicable to locomotive engineers. That is not the case. A definition in that section is referred to. On page 2 of the handout, 69-14-205, Subsection 2, doesn't occur any more; therefore, it is not necessary in the Codes. Subsection 1, 69-14-208, MCA, refers to employees wearing badges. That is not applicable any longer. On the next to the last page of the

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE 3/1/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE	✓		
REP. GARY BECK			✓
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON	✓		
REP. THOMAS LEE	✓		
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

CS05COM.man

HOUSE STANDING COMMITTEE REPORT

March 8, 1991

Mr. Speaker: We, the committee on Labor report that Senate Bill 28 (third reading copy -- blue) be concurred in .

Signed: Carolyn Squires
Carolyn Squires, Chairman

Carried by: Rep. Driscoll